IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1608 OF 2001 (M/S)
(Old No.10977/1983)

State of U.P. … **Petitioner.**

Versus

District Judge, Dehradun and others
… **Respondents.**

Dated 10.09.2004

Hon'ble B.S.Verma, J.

By means of the present Writ Petition, the petitioner-State has challenged the judgment and order dated 15.6.1983 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No. 61 and 62 of 1981. By the impugned judgment and order ***(Annexure-2 to the writ petition)***, respondent no.1 allowed the appeal, setting aside the order, dated 21-1-1981 of the Competent Authority, and declared that the appellants-respondent nos. 2 and 3 do not possess any excess vacant land.

Brief facts of the case are that Smt. Deep Kumar Kaur and Smt. Taran Veer Kaur, respondent nos. 2 and 3 jointly purchased a property the total area of which is 4496.36 sq. mt. situate at 3, Mussoorie Road, Dehradun, through a registered sale deed dated 4.2.72, thereby both of them had equal half share in the property. They filed statement of the properties held by them in pursuance of provisions of Section 6(1) of the Act before the Competent Authority claiming that they did not possess any surplus vacant land. After considering the material before him, the Competent Authority proposed to declare a total area of 496.36 sq.mt. land as excess vacant land held by both the respondent nos. 2 and 3. Objections were filed by the O.P.-respondents. Ultimately, the Competent Authority rejected the objections and held that each of the appellants possessed an area of 248.16 sq.mt. each as excess vacant land. Aggrieved, the O.P.-appellants came up in appeal before the District Judge Dehradun by filing separate appeals. The

learned District Judge after considering the entire material before him held that none of the appellants has been in possession of excess vacant land as per provisions of the Act. Accordingly, the District Judge by the impugned judgment and order dated 15.6.83 allowed the appeals, set aside the order dated 21.1.1981 of the competent authority and declared that the appellants do not possess any excess vacant land as mentioned earlier. Aggrieved, the State of U.P. has come up in Writ Petition.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution, which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

> ***"4. Abatement of legal proceedings.- All proceedings relation to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;***
>
> ***Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."***

The Appellate Court, as mentioned earlier, allowed the appeals of respondent no. 2 and 3, and declared that the O.P./appellants hold no excess vacant land. As stated by the learned Standing Counsel, Sri N.P.Sah, and Sri M.C.Tewari, appearing on behalf of the state, no declaration has been published under section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the Case are squarely covered by the judgment of the Apex Court in the case of ***"Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others" (2000, AIR, SCW, 1882).***

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S. Verma, J.)

RCP